

# **Proposal to Government**

**September 2019**

## 1. Executive summary

- 1.1 Transport for the South East is a sub-national transport body (STB) established to speak with one voice on the strategic transport priorities for the South East region.
- 1.2 Our aim is to grow the South East's economy by delivering a safe, sustainable, and integrated transport system that makes the South East area more productive and competitive, improves the quality of life for all residents, and protects and enhances its natural and built environment.
- 1.3 By operating strategically across the South East on transport infrastructure – a role that no other organisation currently undertakes on this scale – we will directly influence how and where money is invested and drive improvements for the travelling public and for businesses in a region which is the UK's major international gateway.
- 1.4 Already we are commanding the attention of government, facilitating greater collaboration between South East local authorities, local enterprise partnerships (LEPs) and government to shape our region's future.
- 1.5 Our proposal has been developed in partnership with TfSE's members and stakeholders and represents a broad consensus on the key issues facing the region and the powers required to implement our transport strategy.
- 1.6 Our members and stakeholders are clear that a statutory sub-national transport body for the South East is vital if we are to successfully:
  - Increase our influence with Government and key stakeholders;
  - Invest in pan-regional strategic transport corridors;
  - Deliver sustainable economic growth, while protecting and enhancing the environment, reducing emissions and promoting social inclusion; and
  - Enable genuinely long-term planning.
- 1.7 We have only proposed those powers for TfSE which are proportionate and will be effective in helping us achieve our strategic aims and objectives, complementing and building on the existing powers of local authorities.
- 1.8 These powers would enable us to deliver significant additional value at regional level through efficient and effective operational delivery, better coordination of pan-regional schemes and the ability to directly influence and inform national investment programmes.

## 2. The Ambition

*“By 2050, the South East will be a leading global region for emission-free, sustainable economic growth, where integrated transport, digital and energy networks have delivered a step-change in connectivity and environmental quality.*

*A high-quality, reliable, safe and accessible transport network will offer seamless door-to-door journeys enabling our businesses to compete and trade more effectively in the global marketplace, giving our residents and visitors the highest quality of life in the country.”*

**Transport for the South East 2050 vision statement**

- 2.1 Transport for the South East (TfSE) was established in shadow form in June 2017. In the short period since, we have emerged as a powerful and effective partnership, bringing together 16 local transport authorities, five local enterprise partnerships and other key stakeholders including protected landscapes, transport operators, district and borough authorities and national agencies to speak with one voice on the region’s strategic transport needs.
- 2.2 Our vision is underpinned by three strategic goals, which align to the three pillars of sustainable development:
  - improve productivity and attract investment to grow our economy and better compete in the global marketplace;
  - improve health, safety, wellbeing, quality of life, and access to opportunities for everyone; and
  - protect and enhance the South East’s unique natural and historic environment.
- 2.3 Our transport strategy, which covers the period to 2050, will form the basis for achieving that vision. It will deliver sustainable economic growth across the South East, whilst taking account of the social and environmental impacts of the proposals outlined in the strategy.
- 2.4 TfSE has already, in shadow form, added considerable value in bringing together partners and stakeholders to work with Government on key strategic issues, securing positive outcomes for the region in the Roads Investment Strategy 2 and Major Road Network, influencing rail franchising discussions and providing collective views on schemes such as southern and western rail access to Heathrow.
- 2.5 The requirements within our proposal seek to provide TfSE with the initial functions and powers to move to the next stage of our development – to begin delivering the transport strategy and realising the benefits that a high

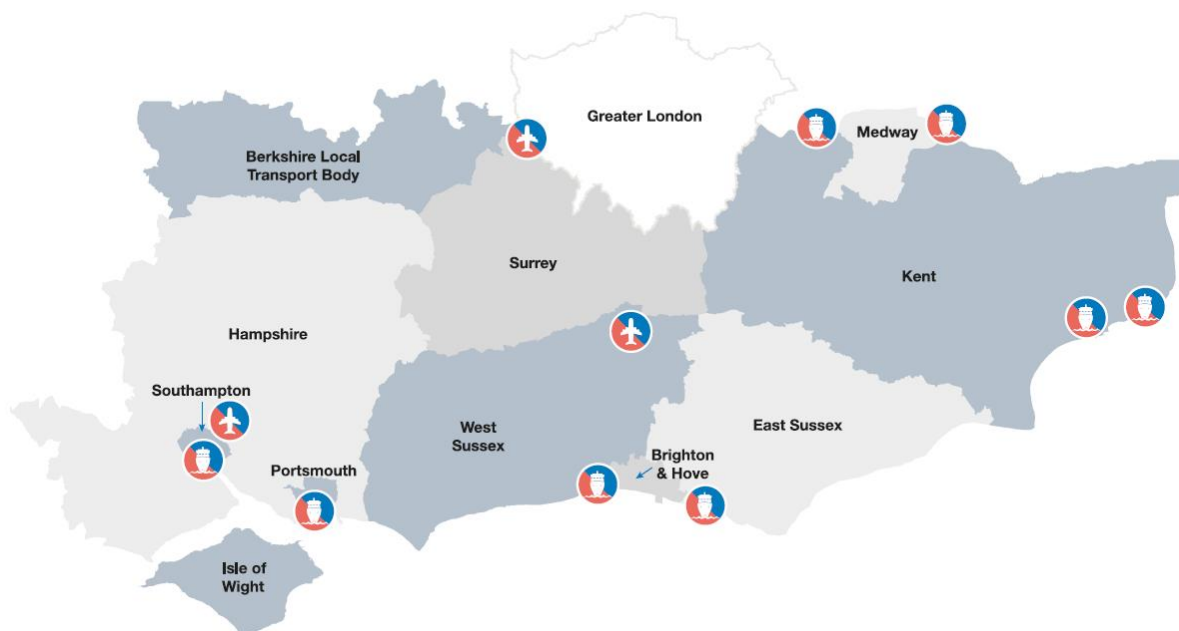
quality, sustainable and integrated transport system can unlock for people, businesses and the environment.

- 2.6 We are clear that we only seek those powers and functions which are necessary to deliver our strategy and achieve our vision. Our requirements differ from those of other STBs and reflect the different geographic, economic, political, social and environmental characteristics of our region and the strategic objectives of TfSE and its partners.
- 2.7 We are only seeking powers that are applicable to a sub-national transport body as outlined by the legislation. There are many other bodies that have environmental and economic remits beyond those held by an STB and it will be essential that we work with these partners to deliver sustainable economic growth across the south east.

### 3. The Strategic and Economic Case

#### The Transport for the South East area

- 3.1 The South East is already a powerful motor for the UK economy, adding more than £200 billion to the economy in 2015 – second only to the contribution made by London and more than Scotland, Wales and Northern Ireland combined.
- 3.2 It is home to 7.5m people and 329,000 businesses including some of the world’s biggest multinationals as well as a large number of thriving, innovative SMEs. It is a world leader in knowledge intensive, high value industries including advanced engineering, biosciences, financial services and transport and logistics.
- 3.3 The South East area includes both of the nation’s busiest airports in Heathrow and Gatwick, a string of major ports including Southampton, Dover and Portsmouth, many of the country’s most vital motorways and trunk roads and crucial railway links to London, the rest of Britain and mainland Europe.



- 3.4 The South East’s international gateways support the economic wellbeing of the whole of the UK. As we withdraw from the European Union, they will be integral to supporting a thriving, internationally facing economy.
- 3.5 Half of all freight passing through Dover going on to other parts of the country. Southampton sees £71 billion of international trade each year and Portsmouth handles two million passengers a year. More than 120 million air passenger a year use Gatwick, Southampton and Heathrow airports.

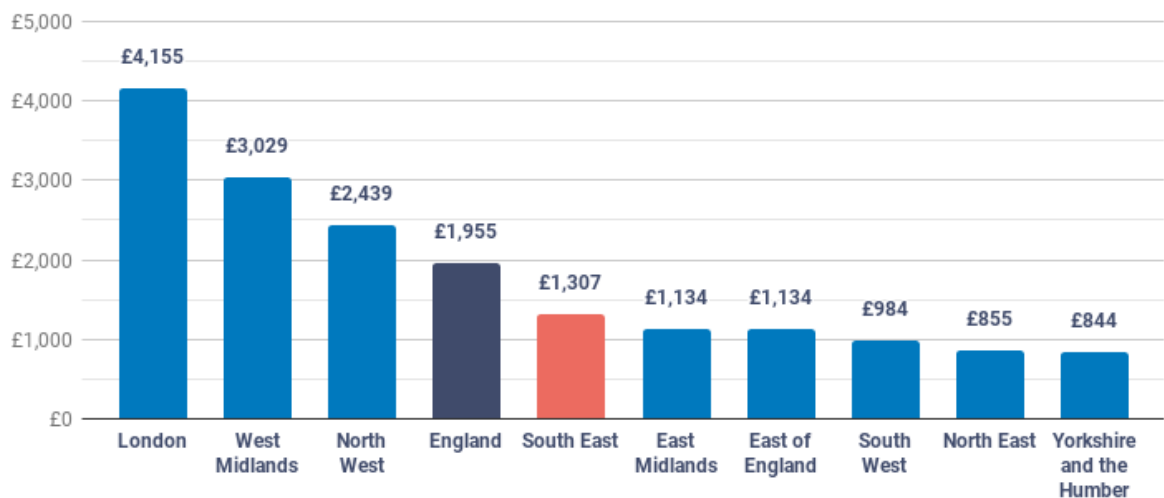
3.6 Our people and infrastructure are not our only assets. With two national parks, five areas of outstanding natural beauty and much of the region allocated as green belt, the South East draws heavily on its unique and varied natural environment for its success. It offers outstanding beaches, historic towns, dynamic cities and unparalleled links to London, the UK, Europe and the rest of the world. It is, in short, an amazing place to live, work and visit.

### The scale of the challenge and why change is needed

3.7 But we face a real challenge. Despite these enviable foundations – and in some cases because of them – our infrastructure is operating beyond capacity and unable to sustain ongoing growth.

3.8 Despite the economic importance of the region to the UK economy, contributing almost 15% of UK GVA (2015), the South East has seen continued underinvestment in transport infrastructure with a per capita spend that is significantly below the England average and a third of that in London.

#### Planned transport infrastructure spending per head



Source: IPPR North analysis of planned central and local public/private transport infrastructure spending per capita 2017/19 onwards (real terms 2016/17 prices)

3.9 So while transport links to and from the capital are broadly good, elsewhere connectivity can be poor – even between some of our region’s major towns and cities. Train journey times between Southampton and Brighton (a distance of around 70 miles) are only marginally less than the fastest train journeys between London and Manchester. The corresponding journey on the A27 includes some of the most congested parts of the South East’s road network.

- 3.10 Underinvestment in road and rail infrastructure is making life harder for our residents and businesses. New housing provision is being hampered by the lack of adequate transport infrastructure. In our coastal communities, lack of access to areas of employment and further education and higher education are major contributors to high unemployment and poor productivity.
- 3.11 The social geography of the South East is varied. The South East area is home to some of the most prosperous and productive areas of the country, but also contains significant areas of deprivation. Improving transport connectivity can help reduce the likelihood of deprivation, but this cannot be considered in isolation and needs to work alongside other important factors, such as improving skills levels.
- 3.12 The South East has a varied and highly valued natural environment. Significant parts of the South East area are designated as National Parks, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest. The environmental assets of the South East help make the South East area an attractive place to live, work and visit, as well as providing an important contribution to the economy. The future development of the South East area and its transport network will need to be managed to minimise any potential adverse impact and enhance these natural assets. The principle of biodiversity net gain will be vital in achieving this.
- 3.13 The South East area faces several significant environmental challenges in the future. There are a significant number of Air Quality Management Areas in place across the South East area. These areas have been established to improve air quality and reduce the harmful impact of Nitrogen Oxides (NOx), Sulphur Oxides (SOx), and particulates on human health and the natural environment. Transport – particularly road transport – is one of the largest contributors to poor air quality in the South East area. Transport therefore has a significant role to play in improving air quality. Noise pollution is also a significant issue, particularly for communities located close to the Strategic Road Network.
- 3.14 The South East also has a significant role to play in tackling climate change. The South East accounts for 12% of the United Kingdom’s greenhouse gas emissions. In 2018, transport accounted for a third of the United Kingdom’s greenhouse gas emissions.
- 3.15 These are challenges that extend beyond administrative and political boundaries. They require TfSE to have the powers to effectively join up transport policy, regulation and investment and provide clear, strategic investment priorities which will improve connectivity into and across the region, boost the economy and improve the lives of millions.

### **The powers to achieve our vision**

- 3.16 To enable us to achieve our vision through the efficient and effective delivery of the transport strategy, we propose that a range of functions exercisable by a local transport authority, passenger transport executive or mayoral combined authority are included in the regulations to establish TfSE on a statutory footing.
- 3.17 We have only sought those powers which we believe are proportionate and will be effective in helping us achieve our strategic aims and objectives, complementing and building on the existing powers of local authorities. The powers will be sought in a way which means they will operate concurrently with – and only with the consent of – the constituent authorities.
- 3.18 These powers would enable us to deliver significant additional value at regional level in three key areas:
- **Strategic influence:** Speaking with one voice and with the benefit of regional scale and insight to influence the development of national investment programmes; a trusted partner for government, Network Rail and Highways England.
  - **Coordination:** Developing solutions which offer most benefit delivered on a regional scale; working with partners and the market to shape the development of future transport technology in line with regional aspirations.
  - **Operational:** Accelerating the delivery of schemes and initiatives which cross local authority boundaries, ensuring strategic investment happens efficiently and that the benefits for residents and businesses are realised as soon as possible.

### **The benefits of establishing TfSE as a statutory body**

- 3.19 **One voice for strategic transport in the South East**  
TfSE will provide a clear, prioritised view of the region's strategic transport investment needs. We already offer an effective mechanism for Government to engage with local authorities and LEPs in the region; statutory status would take that a step further, enabling us to directly inform and influence critical spending decisions by Government and key stakeholders including Highways England and Network Rail.
- 3.20 **Facilitating sustainable economic growth**  
The transport strategy will facilitate the delivery of jobs, housing and growth across the South East and further build on our contribution to UK GVA. Implementation of strategic, cross-boundary schemes, particularly investment in the orbital routes, will connect economic centres and international gateways for the benefit of people and businesses, regionally and nationally. TfSE also offers a route to engage with other sub-national transport bodies and Transport for London on wider cross-regional issues.



However, this cannot be growth at any cost. The implementation of the transport strategy must ensure that the region's high quality environmental assets are protected and, where possible, enhanced, as well as improving health, safety, wellbeing, quality of life, and access to opportunities for everyone.

**3.21 Delivering benefits for the travelling public**

TfSE can support the efficient delivery of pan-regional programmes that will offer considerable benefits to the end user – for example, integrated travel solutions combined with smart ticketing will operate more effectively at a regional scale and can best be facilitated by a regional body than by individual organisations.

**3.22 Local democratic accountability**

Our transport strategy will be subject to public consultation and will, in its final form, provide a clear, prioritised view of investments agreed by all the South East's local transport authorities and with input from passengers, businesses and the general public. Delivery of the strategy will be led by the Partnership Board, comprising elected members and business leaders with a direct line of accountability to the people and organisations they represent.

**3.23 Achieving the longer term vision**

Securing statutory status offers TfSE the permanence and security to deliver the transport strategy to 2050, providing a governance structure that matches the lifecycle of major infrastructure projects. It will provide confidence to funders, enable us to work with the market to ensure the deliverability of priority schemes and support development of the skills needed to design, build, operate and maintain an improved transport network.

## 4. Constitutional arrangements

### Requirements from legislation

#### Name

- 4.1 The name of the sub-national transport body would be 'Transport for the South East ("TfSE")' and the area would be the effective boundaries of our 'constituent members'.

#### Members

- 4.2 The membership of the STB is listed below:

Bracknell Forest Borough Council  
Brighton and Hove City Council  
East Sussex County Council  
Hampshire County Council  
Isle of Wight Council  
Kent County Council  
Medway Council  
Portsmouth City Council  
Reading Borough Council  
Royal Borough of Windsor and Maidenhead Council  
Slough Borough Council  
Southampton City Council  
Surrey County Council  
West Berkshire Council  
West Sussex County Council  
Wokingham Borough Council

#### Partnership Board

- 4.3 The current Shadow Partnership Board is the only place where all 'constituent members' are represented at an elected member level<sup>1</sup>. Therefore this Board will need to have a more formal role, including in ratifying key decisions. This would effectively become the new 'Partnership Board' and meet at least twice per annum. The Partnership Board could agree through Standing Orders if it prefers to meet more regularly.
- 4.4 Each constituent authority will appoint one of their councillors / members or their elected mayor as a member of TfSE on the Partnership Board. Each constituent authority will also appoint another one of their councillors / members or their elected mayor as a substitute member (this includes directly elected mayors as under the Local Government Act 2000). The person appointed would be that authority's elected mayor or leader, provided that, if responsibility for transport has been formally delegated to

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<sup>1</sup> The six constituent members of the Berkshire Local Transport Body (BLTB) will have one representative between them on the Partnership Board.

another member of the authority, that member may be appointed as the member of the Partnership Board, if so desired.

- 4.5 The Partnership Board may delegate the discharge of agreed functions to its officers or a committee of its members in accordance with a scheme of delegation or on an ad hoc basis. Further detail of officer groups and a list of delegations will be developed through a full constitution.

### **Co-opted members**

- 4.6 TfSE proposes that governance arrangements for a statutory STB should maintain the strong input from our business leadership, including LEPs, district and borough authorities and protected landscapes. The regulations should provide for the appointment of persons who are not elected members of the constituent authorities but provide highly relevant expertise to be co-opted members of the Partnership Board.
- 4.7 A number of potential co-opted members are also set out in the draft legal proposal. Co-opted members would not automatically have voting rights but the Partnership Board can resolve to grant voting rights to them on such issues as the Board considers appropriate, for example on matters that directly relate to co-opted members' areas of interest.

### **Chair and vice-chair**

- 4.8 The Partnership Board will agree to a chair and vice-chair of the Partnership Board. The Partnership Board may also appoint a single or multiple vice-chairs from the constituent members. Where the chair or vice-chair is the representative member from a constituent authority they will have a vote.

### **Proceedings**

- 4.9 It is expected that the Partnership Board will continue to work by consensus but to have an agreed approach to voting where consensus cannot be reached and for certain specific decisions.
- 4.10 A number of voting options were considered to find a preferred option that represents a straightforward mechanism, reflects the characteristics of the partnership and does not provide any single authority with an effective veto. We also considered how the voting metrics provide a balance between county and other authorities, urban and rural areas and is resilient to any future changes in local government structures.
- 4.11 The steering group considered these options and preferred the population weighted option based on the population of the constituent authority with the smallest population (the Isle of Wight with 140,000 residents).
- 4.12 This option requires that the starting point for decisions will be consensus; if that cannot be achieved then decisions will require a simple majority of those constituent authorities who are present and

voting. The decisions below will however require both a super-majority, consisting of three quarters of the weighted vote in favour of the decision, and a simple majority of the constituent authorities appointed present and attending at the meeting:

- (i) The approval and revision of TfSE's transport strategy;
- (ii) The approval of the TfSE annual budget;
- (iii) Changes to the TfSE constitution.

The population weighted vote would provide a total of 54 weighted votes, with no single veto. A table showing the distribution of votes across the constituent authorities is set out in Appendix 1. This option reflects the particular circumstances of TfSE, being based on the population of the smallest individually represented constituent member who will have one vote, and only a marginally smaller proportionate vote. It is considered that this option is equitable to all constituent authority members, ensures that the aim of decision making consensus remains and that smaller authorities have a meaningful voice, whilst recognising the size of the larger authorities in relation to certain critical issues.

- 4.13 The population basis for the weighted vote will be based on ONS statistics from 2016 and reviewed every ten years.
- 4.14 As outlined in paragraph 4.7, co-opted members would not automatically have voting rights but the Partnership Board can resolve to grant voting rights to them on such issues as the Board considers appropriate, for example on matters that directly relate to co-opted members' areas of interest. The current shadow arrangements to allocate votes to co-opted Board members are working well, recognising the important contribution that these members bring on environmental, economic and social issues. It would be strongly recommended that the Statutory Body would continue with these arrangements.
- 4.15 The Partnership Board is expected to meet twice per year. Where full attendance cannot be achieved, the Partnership Board will be quorate where 50% of constituent members are present.

### **Scrutiny committee**

- 4.16 TfSE will appoint a scrutiny committee to review decisions made or actions taken in connection with the implementation of the proposed powers and responsibilities. The committee could also make reports or recommendations to TfSE with respect to the discharge of its functions or on matters relating to transport to, from or within TfSE's area.
- 4.17 Each constituent authority will be entitled to appoint a member to the committee and a substitute nominee. Such appointees cannot be otherwise members of TfSE including the Partnership Board.

### **Standing orders**

- 4.18 TfSE will need to be able to make, vary and revoke standing orders for the regulation of proceedings and business, including that of the scrutiny committee. This will ensure that the governance structures can remain appropriate to the effective running of the organisation.
- 4.19 In regards to changing boundaries and therefore adding or removing members, TfSE would have to make a new proposal to Government under Section 102Q of the Local Transport Act 2008 and require formal consents from each constituent authority.

### **Miscellaneous**

- 4.20 It may be necessary that certain additional local authority enactments are applied to TfSE as if TfSE were a local authority, including matters relating to staffing arrangements, pensions, ethical standards and provision of services etc. These are set out in the draft legal proposal.
- 4.21 TfSE also proposes to seek the functional power of competence as set out in section 102M of the Local Transport Act 2008.
- 4.22 TfSE will consider options for appointing to the roles of a Head of Paid Service, a Monitoring Officer and a Chief Finance Officer whilst considering possible interim arrangements.

### **Funding**

- 4.23 TfSE has raised local contributions from the constituent authorities and has secured grant funding from the Department for Transport to support the development of the Transport Strategy.
- 4.24 TfSE will work with partners and the Department for Transport to consider a sustainable approach to establishing the formal STB and effectively and expeditiously as possible, bearing in mind the considerable support among regional stakeholders for TfSE's attainment of statutory status.

### **Governance: Transport Forum and Senior Officer Group**

- 4.23 The Partnership Board will appoint a Transport Forum. This will be an advisory body to the Senior Officer Group and Partnership Board, comprising a wider group of representatives from user groups, operators, District and Borough Councils as well as Government and National Agency representatives.
- 4.24 The Transport Forum will meet quarterly and be chaired by an independent person appointed by the Partnership Board. The Transport Forum may also appoint a vice-chair for the Transport Forum, who will chair the Transport Forum when the chair is not present.

- 4.25 The Transport Forum's terms of reference will be agreed by the Partnership Board. It is envisaged that the Transport Forum will provide technical expertise, intelligence and information to the Senior Officer Group and the Partnership Board.
- 4.26 The Partnership Board and Transport Forum will be complemented by a Senior Officer Group representing members at officer level providing expertise and co-ordination to the TfSE programme. The Senior Officer Group will meet monthly.

## 5. Functions

*TfSE's proposal is to become a statutory sub-national transport body as set out in section part 5A of the Local Transport Act 2008.*

### General functions

- 5.1 Transport for the South East proposes to have the 'general functions' as set out in Section 102H (1) including:
- a. to prepare a transport strategy for the area;
  - b. to provide advice to the Secretary of State about the exercise of transport functions in relation to the area (whether exercisable by the Secretary of State or others);
  - c. to co-ordinate the carrying out of transport functions in relation to the area that are exercisable by different constituent authorities, with a view to improving the effectiveness and efficiency in the carrying out of those functions;
  - d. if the STB considers that a transport function in relation to the area would more effectively and efficiently be carried out by the STB, to make proposals to the Secretary of State for the transfer of that function to the STB; and
  - e. to make other proposals to the Secretary of State about the role and functions of the STB. (2016, 102H (1))5.
- 5.2 The general functions are regarded as the core functions of a sub-national transport body and will build on the initial work of TfSE in its shadow form. To make further proposals to the Secretary of State regarding constitution or functions, Transport for the South East will need formal consents from each 'constituent member'.
- 5.3 Transport for the South East recognises that under current proposals the Secretary of State will remain the final decision-maker on national transport strategies, but critically that the Secretary of State must have regard to a sub-national transport body's statutory transport strategy. This sets an important expectation of the strong relationship Transport for the South East aims to demonstrate with Government on major programmes like the Major Road Network and Railway Upgrade Plan.

### Local transport functions

- 5.4 Initial work has identified a number of additional powers that Transport for the South East may require that will support the delivery of the transport strategy. The table below provides an assessment of these functions.
- 5.5 **The powers which are additional to the general functions relating to STBs will be requested in a way that means they will operate concurrently and with the consent of the constituent authorities.**

- 5.6 To support the principle of consent, TfSE will adopt three further principles:
- That future operations of TfSE should, where possible, seek to draw down powers from central government, rather than seek concurrent powers with the local transport authorities;
  - That decisions on the implementation of the powers are made at the most immediate (or local) level, i.e. by constituent authorities in the particular area affected; and
  - Consent from the relevant constituent authorities will be obtained in advance of any Partnership Board decision on a particular scheme or project.
- 5.7 This approach will help to ensure that TfSE complements and supports the work of the constituent authorities and enables TfSE to promote and expedite the delivery of regionally significant cross-boundary schemes



**Table 1: Proposed powers and responsibilities**

POWER	RATIONALE
<b>General functions</b>	
<p><b>Section 102 H of the Local Transport Act 2008</b></p> <p>Prepare a transport strategy, advise the Secretary of State, co-ordinate the carrying out of transport functions, make proposals for the transfer of functions, make other proposals about the role and functions of the STB.</p>	<p>This legislation provides the general powers required for TfSE to operate as a statutory sub-national transport body, meeting the requirements of the enabling legislation to facilitate the development and implementation of a transport strategy to deliver regional economic growth.</p> <p>Government at both national and local level recognises that the solutions required to deliver regional economic growth are best identified and planned for on a regional scale by those who best understand the people and businesses who live and work there.</p>
<b>Rail</b>	
<p><b>Right to be consulted about new rail franchises</b></p> <p><i>Section 13 of the Railways Act 2005 – Railway Functions of Passenger Transport Executives</i></p>	<p>We are seeking the extension of the right of a Passenger Transport Executive to be consulted before the Secretary of State issues an invitation to tender for a franchise agreement.</p> <p>The right of consultation is significant to TfSE as it confirms our role as a strategic partner, enabling us to influence future rail franchises to ensure the potential need for changes to the scope of current services and potential new markets identified by TfSE are considered.</p> <p>TfSE is uniquely placed to provide a regional perspective and consensus on the priorities for rail in its area. This would benefit central government as a result of the vastly reduced need for consultation with individual authorities.</p> <p>We recognise that changes to the current franchising model are likely following the Williams Review; regardless of these changes, TfSE is clear that it should have a role in shaping future rail service provision.</p>

<p><b>Set High Level Output Specification (HLOS) for Rail</b></p> <p><i>Schedule 4A, paragraph 1D, of the Railways Act 1993</i></p>	<p>TfSE requires a strong, formal role in rail investment decision making over and above that which is available to individual constituent authorities. We act as the collective voice of our constituent authorities, providing an evidence-based regional perspective and consensus on the priorities for investment in our rail network.</p> <p>This power would enable TfSE to act jointly with the Secretary of State to set and vary the HLOS in our area, ensuring TfSE's aspirations for transformational investment in rail infrastructure are reflected in the HLOS and enabling an integrated approach across road and rail investment for the first time.</p>
<p><b>Highways</b></p>	
<p><b>Set Road Investment Strategy (RIS) for the Strategic Road Network (SRN)</b></p> <p><i>Section 3 and Schedule 2 of the Infrastructure Act 2015</i></p>	<p>TfSE requires a strong, formal role in roads investment decision making over and above that which is available to individual constituent authorities. We act as the collective voice of our constituent authorities, providing an evidence-based regional perspective and consensus on the priorities for roads investment.</p> <p>This power would enable TfSE to act jointly with the Secretary of State to set and vary the RIS in our area, ensuring TfSE's aspirations for transformational investment in road infrastructure are reflected in the RIS and enabling an integrated approach across road and rail investment for the first time.</p>
<p><b>Enter into agreements to undertake certain works on Strategic Road Network, Major Road Network or local roads</b></p> <p><i>Section 6(5) of the Highways Act 1980, (trunk roads) &amp; Section 8 of the Highways Act 1980 (local roads)</i></p>	<p>We are seeking the power that local highway authorities currently have to enter into an agreement with other highway authorities to construct, reconstruct, alter, improve or maintain roads.</p> <p>These powers, operated concurrently with the local authorities, will enable TfSE to promote and expedite the delivery of regionally significant cross-boundary schemes that otherwise might not be progressed. They would overcome the need for complex 'back-to-back' legal and funding agreements between neighbouring</p>

	<p>authorities and enable us to reduce scheme development time and overall costs.</p>
<p><b>Acquire land to enable construction, improvement, or mitigate adverse effects of highway construction</b></p> <p><i>Sections 239,240,246 and 250 of the Highways Act 1980</i></p>	<p>This power, exercisable concurrently and only with the consent of the relevant highway authority, would allow preparations for the construction of a highways scheme to be expedited where highway authorities are not in a position to acquire land.</p> <p>Land acquisition by TfSE could facilitate quicker, more efficient scheme delivery, bringing forward the economic and broader social and environmental benefits. In the event that it is not possible to prevent environmental impact on the site of the scheme or project, consideration will be given to appropriate compensation/mitigation measures.</p>
<p><b>Construct highways, footpaths, bridleways</b></p> <p><i>Sections 24,25 &amp; 26 of the Highways Act 1980</i></p>	<p>The concurrent powers required to effectively promote, coordinate and fund road schemes are vital to TfSE. Without them, we would not be able to enter into any contractual arrangement in relation to procuring the construction, improvement or maintenance of a highway or the construction or improvement of a trunk road.</p> <p>Granting of these powers would enable TfSE directly to expedite the delivery of regionally significant road schemes that cross constituent authority boundaries that otherwise might not be progressed.</p>
<b>Make capital grants for public transport facilities</b>	
<p><b>Make capital grants for the provision of public transport facilities</b></p> <p><i>Section 56(2) of the Transport Act 1968</i></p>	<p>This concurrent power would enable TfSE to support the funding and delivery of joint projects with constituent local authorities, improving deliverability and efficiency.</p> <p>Constituent authorities would benefit from the granting of this concurrent power as they may, in future, be recipients of funding from TfSE to partly or</p>

	wholly fund a transport enhancement within their local authority area.
<b>Bus service provision</b>	
<p><b>The power to secure the provision of such public passenger transport services as they consider it appropriate to secure to meet any public transport requirements within their area which would not in their view be met apart from any action taken by them for that purpose.</b></p> <p><i>Paragraph 4 of Section 63 Transport Act 1985</i></p>	<p>Local transport authorities and integrated transport authorities have the power to secure the provision of such public passenger transport services as it considers appropriate and which would not otherwise be provided.</p> <p>Travel-to-work areas do not respect local authority boundaries. TfSE is seeking to have this power concurrently with the local transport authorities in our area, enabling us to fill in identified gaps in bus service provision within our geography or secure the provision of regionally important bus services covering one or more constituent authority areas which would not otherwise be provided.</p>
<p><b>Quality Bus Partnerships</b></p> <p><i>The Bus services Act 2017 Sections 113C – 113O &amp; Sections 138A – 138S</i></p>	<p>TfSE is seeking powers, currently available to local transport authorities and integrated transport authorities, to enter into Advanced Quality Partnerships and Enhanced Partnership Plans and Schemes to improve the quality of bus services and facilities within an identified area. These powers would be concurrent with the local transport authority in the area.</p> <p>This would allow us to expedite the introduction of partnership schemes covering more than one local transport authority area which otherwise might not be introduced.</p>
<b>Smart ticketing</b>	
<p><b>Introduce integrated ticketing schemes</b></p> <p><i>Sections 134C- 134G &amp; Sections 135-138 Transport Act 2000</i></p>	<p>We are seeking powers concurrently with local transport authorities to enable TfSE to procure relevant services, goods, equipment and/or infrastructure; enter into contracts to deliver smart ticketing and receive or give payments.</p>

	<p>This would enable us to expedite the introduction of a cost effective smart and integrated ticketing system on a regional scale which would dramatically enhance the journey experience and increase access to transport to support jobs and education.</p>
<p><b>Air quality</b></p>	
<p><b>Establish Clean Air Zones</b></p> <p><i>Sections 163-177A of the Transport Act 2000 – Road User Charging</i></p>	<p>Local transport authorities and integrated transport authorities have the power under the Transport Act 2000 to implement road charging schemes.</p> <p>TfSE is seeking this general charging power as a mechanism for the introduction of Clean Air Zones, enabling reduced implementation and operating costs across constituent authority boundaries. This will be subject to the consent of the local transport authority.</p> <p>Transport is a major contributor to CO2 emissions and poor air quality; these are increasingly critical issues which our transport strategy will seek to address.</p>
<p><b>Other powers</b></p>	
<p><b>Promote or oppose Bills in Parliament</b></p> <p><i>Section 239 Local Government Act 1972</i></p>	<p>Local authorities have the power to promote or oppose Bills in Parliament; granting the power concurrently to TfSE reflects the devolution agenda of which STBs are a key part.</p> <p>Under the Transport and Works Act 1992, a body that has power to promote or oppose bills also has the power to apply for an order to construct or operate certain types of infrastructure including railways and tramways.</p> <p>Granting of this power would enable TfSE to promote, coordinate and fund regionally significant infrastructure schemes, accelerating delivery of cross-boundary schemes which might otherwise not be progressed.</p>

<p><b>Incidental amendments</b></p> <p><i>Local Government Act 1972, Localism Act 2011, Local Government Pension Scheme Regulations 2013</i></p>	<p>A statutory STB requires certain incidental amendments to enable it to operate as a type of local authority, with duties in respect of staffing, pensions, monitoring and the provision of information about TfSE.</p> <p>The incidental amendments sought are listed below in Appendix 2.</p>
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## Powers and responsibilities not being sought

5.8 Transport for the South East does not propose seeking the following functions/powers:

POWER	RATIONALE
Set priorities for local authorities for roads that are not part of the Major Road Network (MRN)	TfSE will only be responsible for identifying priorities on the MRN
Being responsible for any highway maintenance responsibilities	There is no intention of TfSE becoming involved in routine maintenance of MRN or local roads
Carry passengers by rail	There are no aspirations for TfSE to become a train operating company
Take on any consultation function instead of an existing local authority	Local authorities are best placed to seek the views of their residents and businesses
Give directions to a constituent authority about the exercise of transport functions by the authority in their area (General Power s102P of Part 5A of the Transport Act 2008)	Constituent authorities understand how best to deliver their transport functions to meet the needs of their residents and businesses

5.9 The Williams Rail Review, to which TfSE have submitted a response, could recommend significant changes to the structure of the rail industry, including the role of STBs in both operations and infrastructure enhancement. As a result, we will keep the following functions under review pending Williams' recommendations and subsequent White Paper.

POWER	RATIONALE
Act as co-signatories to rail franchises	There are no current aspirations for TfSE to become involved in this area.
Be responsible for rail franchising	

## 6. Summary of support and engagement

- 6.1 Transport for the South East consulted on the draft proposal between 7 May 2019 and 31 July 2019. The consultation resulted in 96 responses from a wide range of stakeholders, including a number of local interest groups and members of the public.
- 6.2 An overwhelming number of respondents offered support for the creation of a statutory sub-national transport body in the south east. There were many, varied reasons for this support including:
- Opportunity for TfSE to speak with 'one-voice' to identify regional priorities and influence the investment decisions of central government and national agencies;
  - Greater focus on integrated transport solutions, developing multi-modal solutions that improve the end user experience;
  - Offering a greater level of democratic accountability; and
  - The ability to accelerate delivery of long-term, strategic infrastructure schemes.
- 6.3 A number of amendments have been made to the final draft proposal to reflect the comments raised by respondents to the consultation:
- Greater emphasis on environmental protection, climate change and social inclusion (sections 2 and 3);
  - Principle of subsidiarity and consent (para 5.6);
  - Governance (para 4.14); and
  - Bus and rail powers (section 5).
- 6.4 TfSE will seek consent from its constituent authorities and the final draft Proposal will be endorsed by the Shadow Partnership Board prior to submission to Government.
- 6.5 The final submission to Government will include a summary of engagement activities, including a list of the organisations engaged in the process and an appendix with a number of letters of support from key organisations and businesses.



## Appendix 1: Distribution of votes

TfSE constituent authorities	Population <sup>2</sup>	Number of votes <sup>3</sup>
Brighton and Hove City Council	287,173	2
East Sussex County Council	549,557	4
Hampshire County Council	1,365,103	10
Isle of Wight Council	140,264	1
Kent County Council	1,540,438	11
Medway Council	276,957	2
Portsmouth City Council	213,335	2
Southampton City Council	250,377	2
Surrey County Council	1,180,956	8
West Sussex County Council	846,888	6
<i>Bracknell Forest Council</i>	<i>119,730</i>	
<i>Reading Borough Council</i>	<i>162,701</i>	
<i>Royal Borough of Windsor &amp; Maidenhead</i>	<i>149,689</i>	
<i>Slough Borough Council</i>	<i>147,736</i>	
<i>West Berkshire Council</i>	<i>158,576</i>	
<i>Wokingham Borough Council</i>	<i>163,087</i>	
Berkshire Local Transport Body (total)	901,519	6
<b>Total</b>	<b>7,552,567</b>	<b>54</b>

<sup>2</sup> Population as per ONS 2016 estimates

<sup>3</sup> Number of votes = population/140,000 (the population of constituent authority with the smallest population, this being the Isle of Wight)

## Appendix 2: List of incidental powers sought

This appendix sets out the incidental amendments that will be needed to existing legislation. They include areas relating to the operation of TfSE as a type of local authority with duties in respect of staffing, pensions, transparency, monitoring and the provision of information about TfSE.

(1) Section 1 of the Local Authorities (Goods and Services) Act 1970 has effect as if TfSE were a local authority for the purposes of that section.

(2) The following provisions of the Local Government Act 1972 have effect as if TfSE were a local authority for the purposes of those provisions—

- (a) section 101 Arrangements for discharge of functions by local authorities
- (b) section 111 (subsidiary power of local authorities);
- (c) section 113 (secondment of staff)
- (d) section 116 (member of TfSE not to be appointed as officer);
- (e) section 117 (disclosure by officers of interests in contracts);
- (f) section 135 (standing orders for contracts);
- (g) section 142(2) (provision of information);
- (h) section 222 (power to investigate and defend legal proceedings);
- (i) section 239 (power to promote or oppose a local or personal Bill).

(4) Sections 120, 121 and 123 of that Act (acquisition and disposal of land) have effect as if—

- (a) TfSE were a principal council;
- (b) section 120(1)(b) were omitted;
- (c) section 121(2)(a) were omitted.

(5) Section 29 of the Localism Act 2011 (registers of interests) has effect as if—

- (a) TfSE were a relevant authority, and
- (b) references to “the monitoring officer” were references to an officer appointed by TfSE for the purposes of that section.

(6) In the Local Government Pension Scheme Regulations 2013—

- (a) in Schedule 2 (scheme employers), in Part 2 (employers able to designate employees to be in scheme), after paragraph 14 insert—  
“15. Transport for the South East.”;
- (b) in Schedule 3 (administering authorities), in the table in Part 2 (appropriate administering authorities for categories of scheme members), at the end insert—

“An employee of Transport for the South East
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East Sussex County Council”
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(7) The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 have effect as if TfSE is a local authority within the meaning of s 101 Local Government Act 1972.



